



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0037; Notice 1]

BMW of North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: BMW of North America, LLC, a subsidiary of BMW AG, Munich, Germany, (collectively “BMW”), has determined that certain Model Year (MY) 2018–2021 BMW K 1600 motorcycles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 123, *Motorcycle Controls and Displays*. BMW filed an original noncompliance report dated March 18, 2021, and, subsequently, BMW petitioned NHTSA on April 9, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of BMW’s petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2181.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at https://www.regulations.gov by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Frederick Smith, General Engineer,
NHTSA, Office of Vehicle Safety Compliance, (202) 366-7487.

SUPPLEMENTARY INFORMATION:

I. Overview:

BMW has determined that certain MY 2018–2021 BMW K 1600 motorcycles do not fully comply with the requirements of paragraph S5.2.5 of FMVSS No. 123, *Motorcycle Controls and Displays* (49 CFR 571.123). BMW filed a noncompliance report dated March 18, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. BMW subsequently petitioned NHTSA on April 9, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of BMW’s petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Motorcycles Involved:

Approximately 4,966 MY 2018–2021 BMW K 1600 GTL, B, and Grand America motorcycles manufactured between April 13, 2017, and February 23, 2021, are potentially involved.

III. Noncompliance:

BMW explains that the noncompliance is that the subject motorcycles are equipped with passenger footrests that fold upward and slightly forward, but not rearward, when not in use, and, therefore, do not fully comply to the requirements specified in paragraph S5.2.5 of FMVSS No. 123.

IV. Rule Requirements:

Paragraph S5.2.5 of FMVSS No. 123 includes the requirements relevant to this petition. Footrests shall be provided for each designated seating position. Each footrest for a passenger other than an operator shall fold rearward and upward when not in use.

V. Summary of BMW's Petition:

The following views and arguments presented in this section, "V. Summary of BMW's Petition," are the views and arguments provided by BMW. They have not been evaluated by the Agency and do not reflect the views of the Agency. BMW describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, BMW submitted the following reasoning:

1. **Passenger Footrest Location:** For the MY 2021 BMW K 1600 GTL, the passenger footrest is attached to the mounting bracket and the bracket is bolted to the motorcycle frame. Similar configurations are applicable to the K 1600 B and K 1600 Grand America. There are slight differences in the geometry and mounting locations for the passenger footrest between the K 1600 GTL and the K 1600 B/Grand America. The mounting locations for the rider footrest are identical, but for the K 1600 GTL, the mounting location for the passenger footrest is higher.
2. **Lean Angle:** The lean angle is the angle that is subtended by the intersection of a plane passing through the longitudinal axis of the motorcycle when it is upright (vertical), and a plane passing through the longitudinal axis of the motorcycle when the motorcycle is at a specific angle (i.e., the lean angle) from upright (vertical).
3. **Ground Contact of Certain Components/Distance to Passenger Footrest:** During a banked turn, although there is no possibility for ground contact to occur with the passenger footrest, an analysis was performed to determine the distance between the passenger footrest and the ground when other motorcycle components contact the ground.

- a. K 1600 GTL: While in a banked turn, the first component that could contact the ground would be the rider's footrest at an angle of approximately 39 degrees. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 95.4 mm (3.8 in) in a left lean angle, and approximately 93.9 mm (3.7 in) in a right lean angle.

If the rider continued to increase the lean angle, other components, such as the engine spoiler, or the engine protection guard (if equipped), at approximately 43 degrees, would contact the ground. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 63.3 mm (2.5 in) in a left lean angle, and approximately 61.8 mm (2.4 in) in a right lean angle. The distance-to-ground measurements for the passenger footrest, if it were even possible for the silencer to contact the ground at a lean angle of approximately 46 degrees (left) and approximately 47.9 degrees (right), was calculated, see Table 1 below.

- b. K 1600 B/ K 1600 Grand America: Similar to the analysis for the K 1600 GTL, analyses were performed for the K 1600 B and the K 1600 Grand America. In a banked turn, if the rider continued to increase the lean angle, there are a number of components that would contact the ground, and at those points, the passenger footrest would be several inches from the ground.
- c. K 1600 Grand America: Please note that for the K 1600 Grand America, the rider floorboard and the engine protection guard are standard equipment. While in a banked turn, the first component that could contact the ground would be the rider's floorboard at an angle of approximately 34.5 degrees. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 85.1 mm (3.4 in) in a left lean angle, and approximately 83.5 mm (3.3 in) in a right lean angle.

If the rider continued to increase the lean angle, the rider's footrest could contact the ground at an angle of approximately 39 degrees. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 51.1 mm (2.0 in) in a left lean angle, and approximately 49.5 mm (1.9 in) in a right lean angle. If the rider continued to increase the lean angle, the silencer, at approximately 42 degrees, would contact the ground. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 24.4 mm (1.0 inches) in a left-leaning condition and approximately 18.8 mm (0.7 inches) in a right-leaning condition.

- d. K 1600 B: While in a banked turn, the first component that could contact the ground would be the rider's footrest at an angle of approximately 39 degrees. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 51.1 mm (2.0 in) in a left lean angle, and approximately 49.5 mm (1.9 in) in a right lean angle.

If the rider continued to increase the lean angle, the passenger footrest would be at a distance to the ground of approximately 24.4 mm (1.0 inches) in a left-leaning condition, and approximately 18.8 mm (0.7 inches) in a right-leaning condition.

- e. Summary Table for All Models: A summary of the measurements is contained in Tables 1 and 2 below. Table 1 includes the motorcycle models, components that were used in the analyses, and the lean angles for the various components. Table 2 contains the distance to the ground of the passenger footrest when specific components are in contact with the ground.

Table 1

Model	K 1600 GTL	K 1600 B	K 1600 GA	K 1600 GTL		K 1600 B / K 1600 GA	
Component	Std/Opt/Acc	Std/Opt/Acc	Std/Opt/Acc	Lean Angle Left (deg)	Lean Angle Right (deg)	Lean Angle Left (deg)	Lean Angle Right (deg)
Rider Footrest	Std	Std	Std	39	39	39	39
Engine Protection Guard	Opt	Opt	Std	43	43	43	43
Rider Floorboard	Not available	Acc	Std	N/A	N/A	34.5	34.5
LED Auxiliary Light	Opt	Opt	Opt	43	43	43	43
Engine Spoiler	Std	Std	Std	43.5	43.5	43.5	43.5
Gear Lever	Std	Std	Std	42.5	N/A	42.5	N/A
Foot Brake	Std	Std	Std	N/A	43.7	N/A	43.7
Silencer	Std	Std	Std	46	47.9	42	42
Side Stand	Std	Std	Std	46	N/A	43.8	N/A
Center Stand	Std	Opt	Opt	46	46	42.5	42.5
Engine Protector Pad	Std	Std	Std	48.5	47.9	48.5	47.9

Table 2

Model	K 1600 GTL				K 1600 B / K 1600 Grand America			
Component	Lean Angle Left (deg)	Distance to Ground (mm)	Lean Angle Right (deg)	Distance to Ground (mm)	Lean Angle Left (deg)	Distance to Ground (mm)	Lean Angle Right (deg)	Distance to Ground (mm)
Passenger Footrest	39	95.4	39.0	93.9	34.5	85.1	34.5	83.5
	43	63.3	43.0	61.8	39.0	51.1	39.0	49.5
	46	39.3	47.9	22.5	42.0	24.4	42.0	18.8

4. **Test Rides to Assess Component Contact with Ground:** Test rides were conducted with a K 1600 GTL and with a K 1600 Grand America to evaluate the issue in a dynamic/real-world environment. Brief on-board videos were taken to provide a close-up view of certain components prior to, and at, contact with the Ground.

- a. K 1600 GTL: When the rider is performing a banked turn and is just starting to increase the lean angle, at this point no component has contacted the ground. As the angle increases, the rider achieves an angle where the rider's footrest first starts to contact the ground and is evident by white "sparks" as a result of the contact. At this point, the passenger footrest is still approximately several inches from the ground.
 - b. K 1600 B / Grand America: A similar video for the K 1600 Grand America depicts a similar condition. As the rider increases the lean angle in a banked turn, the rider's footrest will eventually contact the ground and, at that point, the passenger footrest is still approximately several inches from the ground.
5. **Conclusion:** While in a banked turn, there is no possibility for the passenger footrest to contact the ground. If the lean angle is increased, there are a number of motorcycle components that would contact the ground and, at those points, the passenger footrest is still approximately several inches from the ground.
 6. **Field Experience:** BMW has not received any complaints from vehicle owners and is not aware of any accidents or injuries that have occurred as a result of this issue.
 7. **Vehicle Production:** Vehicle production has been corrected to conform to paragraph S5.2.25 of FMVSS No. 123.

BMW concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or

noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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